

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MICHAEL KEVIN HOFFMAN,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 06-473-JJF
	:	
ROBERT GEORGE,	:	
Warden, and CARL C. DANBERG,	:	
Attorney General for the State of Delaware,	:	
	:	
Respondents.	:	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Michael Kevin Hoffman, has applied for federal habeas relief, challenging his August 2001 conviction by guilty plea in Delaware Superior Court to the charge of sexual solicitation of a child and his subsequent violation of probation in June 2006. D.I. 1. By the terms of the Court's order, the answer is due to be filed on October 23, 2006.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts. However, the workload for the Appeals Division attorneys is currently very substantial. In the past four weeks, counsel has filed two answering briefs and an opening supplemental memorandum in appeals before the state supreme court, in addition to an answer to a habeas petition and a motion to dismiss another habeas petition in federal district court. Counsel anticipates filing an additional answering brief and a supplemental answering memorandum in the state supreme court, and an answer to a federal habeas petition in this Court next week.

Counsel is doing her best to prioritize cases by date received. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including December 1, 2006, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759

DATE: October 20, 2006

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan
Deputy Attorney General

Counsel for Respondents

Date: October 20, 2006

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2006, I electronically filed a motion for extension of time with attachment with the Clerk of Court using CM/ECF. I also hereby certify that on October 20, 2006, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Michael Kevin Hoffman
SBI No. 426044
Young Correctional Institution
1301 E. 12th Street
P.O. Box 9561
Wilmington, DE 19809

/s/ Elizabeth R. McFarlan
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Warden, and CARL C. DANBERG,	:	
Attorney General for the State of Delaware,	:	
	:	
Respondents.	:	

ORDER

This ____ day of _____, 2006,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before December 1, 2006.

United States District Judge